IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11463 of 2004

Between:

E.Mahender Reddy, s/o E.V.Narasimha Reddy,
(Under suspension), A.P.Vikalangula Co.op.Corporation,
Nizamabad, Nizamabad District.

..... PETITIONER

AND

1 The Managing Director, A.P.,Vikalangula Cooperative Corporation, Hyderabad.
2 The District Manager, A.P.Vikalangula Cooperative Corporation, Nizamabad, Nizamabad District.
3 The District Collector, Nizamabad, Nizamabad District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, preferably one in the nature of writ of mandamus, declaring the impugned order of the 3rd respondent vide proceedings No.DM/APVCC/98, dated 29-02-2004 placing the petitioner under suspension pending enquiry, as arbitrary, illegal, without power and jurisdiction and consequently direct the respondents herein to reinstate the petitioner into service with all consequential benefits including back wages to the petitioner forthwith;

Counsel for the Petitioner:MRC.RAJA SEKHAR REDDY

Counsel for the Respondent Nos.1 and 2: MR.K.RAMANUJACHARI

Counsel for the Respondent No.3: The Government Pleader for

Cooperation.

The Court at the admission stage made the following ORDER:

The present writ petition is filed questioning the impugned proceedings vide No.DM/APVCC/98, dated 29-02-2004 issued by the third respondent, under which, the petitioner was placed under suspension.

Learned Counsel appearing for the petitioner contended that the petitioner is working as Counselling Rehabilitation & Marketing Officer in A.P.Vikalangula Cooperative Corporation, Nizamabad (for short "Corporation") and therefore, the first respondent-Managing Director of the said Corporation is the Disciplinary and Competent Authority to take any disciplinary action against the petitioner but not the third respondent-District Collector, Nizamabad, who issued the impugned proceedings and therefore, prays to set aside the impugned proceedings.

On the other hand, learned counsel appearing for the respondents opposed the same stating that the third respondent in exercise of the powers conferred under Rule 8 (1) of the Andhra Pradesh Civil Services (CCA) Rules, 1991, can place the petitioner under suspension and therefore, the impugned proceedings does not suffer from any serious infirmities.

The petitioner is working as Counselling Rehabilitation & Marketing Officer in A.P.Vikalangula Cooperative Corporation, Nizamabad. As the petitioner failed to circulate the concerned file, charges were framed against him. The third respondent by his impugned proceedings dated 29-02-2004 placed the petitioner under suspension. As per the special byelaws regulating the service conditions of the employee, the Managing

Director shall be the Disciplinary Authority for the employees working under the Corporation. Therefore, the impugned proceedings passed by the third respondent is without jurisdiction. Normally this Court will not interfere with the suspension order pending enquiry but here it is a case where the third respondent has no jurisdiction at all to place the employee under suspension who is working in the first respondent Corporation. Therefore, the impugned proceedings suffer from lack of jurisdiction and are liable to be set aside.

In the result, the impugned proceedings are set aside and the writ petition is disposed of. However, this order will not preclude the first respondent in taking any disciplinary action against the petitioner as per law. In the circumstances, no costs.

14th JULY, 2004.

Note: furnish c.c. by 15-07-2004.

B/o

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To

1 The Managing Director, A.P.,Vikalangula Cooperative Corporation, Hyderabad.
2 The District Manager, A.P.Vikalangula Cooperative Corporation, Nizamabad, Nizamabad District.
3 The District Collector, Nizamabad, Nizamabad District.
4 Two CCs to the Government Pleader for Cooperation, A.P.High Court Buildings, Hyderabad. (OUT).
5 Two CD Copies.